

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24472 of 2013

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1. Md. Kamran Son Of Dr. Raushan Jahan Resident Of Village Chak Mahesi, P.S. Chak Mahesi, District Samastipur
 2. Md. Zeeshan Raushan Son Of Dr. Raushan Jahan Resident Of Village Chak Mahesi, P.S. Chak Mahesi, District Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Md. Murtuza Son Of Md. Maqbool Resident Of Village Chak Mahesi, P.S. Chak Mahesi, District Samastipur
3. Md. Kariman Maharaj Son Of Hussaini Maharaj Resident Of Village Chak Mahesi, P.S. Chak Mahesi, District Samastipur
4. The D.C.L.R., Samastipur, District Samastipur
5. The Circle Officer, Kalyanpur, District Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. MD. SHAHNAWAZ ALI, Adv.

For the Respondent/s : Mr. Mukesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-05-2015

Heard counsel for the petitioners and the respondents.

It is stated by the counsel for the petitioners that they have right over the property in question purchased from the person having right, title and possession over the land. That has been tested in Case No. 193 of 2012 which was decided against the petitioner, challenged in BLT 705 of 2013 unsuccessfully holding that the application was not maintainable on account of forum of appeal not exhausted under the Bihar Land Dispute Resolution Act, 2009 (hereinafter referred to as the 'Act').

The primary question for this Court is to consider the power and jurisdiction of Land Reforms Deputy Collector under the Act, as in the present case, petitioners have given the genealogical table showing relationship in following manner, Bhaggu Maharaj had one son Jalim Maharaj and one

daughter Rahiman Khatoon, Jalim Maharaj had one son, namely, Abdul Hameed @ Nathuni Maharaj. Jamil Maharaj died during the life time of his father Bhaggu Maharaj then Abdul Hameed became mahjoob (deprived from the title of the property). Thereafter grand father of Abdul Hameed made an Atainama, gifted the property to Hameed but in the gift deed disputed property is silent and the petitioners had purchased the land in 2006 from Shekhawat Ali son of Dokari Mahraj who was son of Rahiman Khatoon.

Counsel for the respondents submitted that the original land-holder died issueless and gifted the land to six sons of his brother in-law and one of his sons was Anjar Ahmad from whom the petitioners have purchased the land.

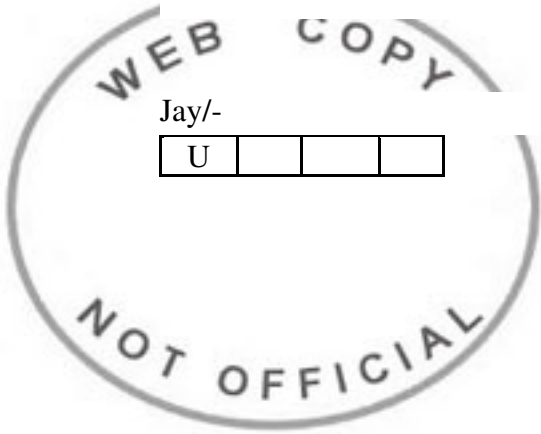
Under the Act, the DCLR has no jurisdiction to decide the right and title of the parties. In view of the judgment reported in 2014(3) PLJR 281 (Maheshwar Mandal v. State of Bihar) the Court has examined Sections 4(4) and 4(5) of the Act and held, while exercising power under the BLDR Act, the DCLR has no jurisdiction to decide the complicated question of fact and decide title of parties which can only be decided by a civil court of competent jurisdiction.

In such view of the matter, the order passed by the DCLR is hereby quashed and the matter is remanded back to the DCLR to examine the case of the parties with respect to his jurisdiction in view of the judgment of the Division Bench, as aforesaid.

Counsel for the respondent no.2 is directed to implead the petitioners as party before the DCLR, who will be obliged to give notice, hear the petitioner and other contesting persons, will pass order examining its jurisdiction in view of judgment stated above. Petitioners and respondents will be at liberty to file any objection before the DCLR who will deal with the matter in

accordance with law.

With the above observation/direction, this petition is disposed of.



(Shivaji Pandey, J)